

## REMARKS

Applicants have filed Information Disclosure Statements (IDS) dated June 18, 1999, July 14, 1999 and August 31, 1999 that have not been considered by the Examiner. The Examiner is requested to provide the Applicant with initialed PTO Form 1449s corresponding to each filed IDS in response to this Request for Continued Examination.

Claims 27, 31, 45, 47 and 61-66 are currently pending in the application. Claims 27 and 31 have been indicated as allowable. Claims 31, 45, 61, 63, 65 and 66 have been amended. Support for the amendments can be found at least at page 30, lines 10-25.

Applicants assert claims 34, 45, 61, and 63-66 overcome the rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a) over the Hite et al. (U.S. 5,774,170) patent.

For instance, the Hite patent does not disclose or suggest, at least, the feature of scanning the program information label to ascertain the instantaneous content level of a scene or portion thereof of the program over the duration of the program as recited in independent claims 61, 63 and 66.

Nor does the Hite patent disclose or suggest the combination of features of scanning the program information label to ascertain the instantaneous content level value of a frame of the program over the duration of the program, determining one of a plurality of advertisements to be run during said program based upon the instantaneous content level of a frame of the program, and scheduling said one advertisement within the program within a predetermined time interval of

presentation of the content having a predetermined value of the instantaneous content level of the program information label as recited in independent claim 34.

The Examiner relies on the column 4, lines 33-45 of the Hite patent as disclosing the claimed features. However, Applicant's claims are directed to the instantaneous content level of each scene or portions thereof of the program, not merely the purported subject matter of the entire program as suggested by the cited portions of the Hite patent.

As for claim 45, it recites the feature of wherein the advertisement is scheduled to be presented to the user within a predetermined time interval of the content of the information having the at least one aspect from when the at least one aspect is determined.

The cited portion of the Hite patent does not disclose or suggest presenting an advertisement to a user within a predetermined time interval of the content of the information having the at least one aspect from when the at least one aspect is determined in combination with the other features of the claim.

The Hite patent merely states that the commercial would or would not be shown, but does not take into account the presentation of the at least one aspect of the content of the information as recited in the claim.

As for claim 65, it recites the feature of wherein the advertisement is scheduled to be presented outside a predetermined time interval of the presentation of the content of the information having the at least one aspect determined based upon its associated information label.

The cited portion of the Hite patent does not disclose or suggest when after presentation of the content of the information having the at least one aspect

determined based upon its associated information label that a commercial will be presented. The Hite patent merely states that the commercial would or would not be shown, but does not take into account the presentation of the at least one aspect of the content of the information as recited in the claim.

Applicant respectfully submits that claims 34, 45, 61, and 63-66 are in condition for allowance, and notification to that effect is respectfully requested.

Should any questions arise in connection with this application, or should the Examiner believe a telephone conference would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: September 5, 2006

By:



Martin E. Miller  
Registration No. 56022

P.O. Box 1404  
Alexandria, VA 22313-1404  
703 836 6620